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Subject: CONFIDENTIAL SETTLEMENT COMMUNICATION -- Portland Harbor sampling negotiations
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Attachments: [EPA revd 2017-08-16 Pre-RD AOC \(redline\) \(002\).docx](#)

CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear Legal Coordinating Committee:

EPA continues its negotiations with a group of PRPs for performance of baseline sampling and further SMA delineation sampling. The companies we have been negotiating with are: Arkema/LSS, Schnitzer Steel, BAE Marine Group, Evraz, Portland General Electric, and Exxon Mobil. There has been significant focus on the technical scope and details of the sampling in most of the conversations to date. We are hopeful we can narrow the gaps to reach agreement on a mutually acceptable sampling event within the next week. As you know, in early July we sent the group a draft AOC and Statement of Work. We received comments and revisions on those documents from the group. Attached is EPA's response to the revisions proposed by the group to the AOC. Thus, the redline text reflects changes to our original draft that EPA is agreeing to make. Changes to the SOW are still in process.

Unfortunately, the Group has requested deletion of language regarding direct funding of the Tribes' oversight costs on the work conducted under this Settlement. Lawyers for the companies have indicated a strong desire that nothing in this agreement be used against them or as an admission by them on any claim or defense they raise in the ongoing litigation and, given the limited scope of work being conducted, it is their belief and contention that the Tribes should not be incurring more than nominal costs.

EPA has communicated and will continue to communicate clearly to the parties that we want the Tribes' participation in the sampling work and will continue to provide funding to support the Tribes' involvement and will seek reimbursement of such costs under this agreement. However, given the parties' strong objection to including direct funding in this Settlement, the language to that affect is being deleted.

Stephanie and I are available Thursday afternoon or Friday morning for a call if you wish to discuss EPA's agreed changes to the AOC.

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